

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
RAFAEL ANTONIO GARAVITO-GARCIA,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.  
-----x

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/17/19

17-cv-5798 (JSR) (SLC)

12-cr-839-1 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

On November 13, 2019, the Honorable Sarah L. Cave, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending that petitioner Rafael Antonio Garavito-Garcia's (1) motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (the "Habeas Motion") and (2) subsequent motions to amend the Habeas Motion be both denied. Petitioner has failed to file any objection to the Report and Recommendation, and, for that reason alone, has waived any right to review by this Court. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002); Spence v. Superintendent, Great Meadow Corr. Facility, 219 F.3d 162, 174 (2d Cir. 2000). In abundance of caution, the Court has reviewed the underlying record de novo and finds itself in complete agreement with Magistrate Judge Cave's Report and Recommendation.

Accordingly, the Court hereby adopts the Report and Recommendation, and, for the reasons therein, dismisses the petition with prejudice. In addition, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. Moreover, the Court certifies that any appeal from this Order would not be taken in good faith, as petitioner's claim lacks any arguable basis in law or fact, and therefore permission to proceed in forma pauperis is also denied. See 28 U.S.C. § 1915(a)(3); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005). The Clerk to enter judgment.

SO ORDERED.

Dated: New York, NY  
December 16, 2019

  
JED S. RAKOFF, U.S.D.J.